IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26093 of 2007(E)

AGAINST THE ORDER DATED / / IN IA 582/2007 IN OS.674/2001 of PRL.M.C.,KOZHIKODE-II

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PETITIONER:

M.S.VELAYUDHAN, AGED 81 YEARS,
SON OF SAMI, MANNIDIVEETTIL HOUSE, OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS:

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1. THE SECRETARY,
   OLAVANNA GRAMA PANCHAYATH, OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

2. THE PRESIDENT,
   OLAVANNA GRAMA PANCHAYATH, OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

3. THE VICE PRESIDENT,
   OLAVANNA GRAMA PANCHAYATH, OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

4. M.N.VENUGOPALAN, SON OF IMBICHUNNI,
   MELE NADAKKAVIL HOUSE, OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

5. N.MUKUNDAN, SON OF AMMALUKUTTY,
   OLAVANNA AMSOM AND DESOM OF KOZHIKODE TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.26093 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P4 order. Writ petitioner moved Ext.P3 application for setting aside the commissioner's report and valuation. The court below dismissed the application holding that it is only to protract the matter. I am not very much satisfied with the matter because, it has not considered the points which had been stated in the affidavit. When a petition for setting aside a commissioner's plan and report is filed, the court is expected to apply its mind and pass appropriate orders.

2. But I make provisions to protect the interest of the party, who had filed the application for setting aside the commissioner's plan and report. I make it clear that the dismissal of this application will not stand in the way of the writ petitioner adducing evidence against the commissioner's plan and report

and if the court is convinced at that stage that the report and the valuation are liable to be corrected or interfered with, then when the application is moved in that direction, the court has to consider it and pass orders.

Reserving this right, the Writ Petition is dismissed.

M.N.Krishnan,
Judge.

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